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4 MEDIA OWNERSHIP IN THE 21ST CENTURY

5 WEDNESDAY, JUNE 11, 2014

6 House of Representatives,

7 Subcommittee on Communications and Technology

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The Subcommittee met, pursuant to call, at 10:35 a.m.,
11 in Room 2123 of the Rayburn House Office Building, Hon. Greg
12 Walden [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Walden, Latta,
14 Shimkus, Terry, Blackburn, Lance, Guthrie, Kinzinger, Long,
15 Barton, Eshoo, Braley, Lujan, Rush, Butterfield, and Waxman
16 (ex officio).

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17 Staff present: Ray Baum, Senior Policy Advisor/Director
18 of Coalitions; Sean Bonyun, Communications Director; Matt
19 Bravo, Professional Staff Member; Andy Duberstein, Deputy
20 Press Secretary; Gene Fullano, Detailee, Telecom; Kelsey
21 Guyselman, Counsel, Telecom; Grace Koh, Counsel, Telecom;
22 David Redl, Counsel, Telecom; Charlotte Savercool,
23 Legislative Coordinator; Tom Wilbur, Digital Media Advisor;
24 Shawn Chang, Democratic Chief Counsel for Communications and
25 Technology Subcommittee; Margaret McCarthy, Democratic
26 Professional Staff Member; and Ryan Skukowski, Democratic
27 Policy Analyst.

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28 Mr. {Walden.} If our friends and visitors could come on
29 in and get a seat, we will close those back doors, just to
30 hold--

31 {Voice.} Front doors.

32 Mr. {Walden.} Yeah, or the front doors, I guess. I
33 want to call to order the Subcommittee on Communications and
34 Technology, and welcome you all for our Media Ownership in
35 the 21st Century hearing, and thank our witnesses for taking
36 time to be here. We really appreciate your counsel and your
37 testimony.

38 I will open with my opening statement, and then we will
39 move to Ms. Eshoo for hers.

40 What do the founding of Microsoft, the first episode of
41 Saturday Night Live, and the establishment of the
42 broadcast/newspaper cross-ownership ban have in common?
43 Well, they are all about ready to turn 40, because they all
44 took place in 1975. But where Microsoft has innovated and
45 moved past a world where MS-DOS was the state-of-the-art, and
46 Saturday Night Live continues to reinvent itself as an
47 essential piece of Americana, the media ownership rules

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48 persist as though the Internet simply did not exist. Our
49 laws need to reflect the reality of the world we live in
50 today, not the world of the Ford Administration. It is my
51 sincere hope that today's discussion can spur us to
52 rationalize the rules and regulations for a media industry
53 that serves consumers in this century and not in the last.
54 The Ford Administration, as noted there, with one chairman of
55 the subcommittee posed with Mr. Ford, just to put in context
56 how things have changed, beyond just my hairline.

57 In today's media environment, traditional media like
58 Bend--thank you for taking that down now. Traditional media,
59 like Bend, Oregon's, KTVZ-TV and the town's Bulletin
60 newspaper compete with Twitter, The Drudge Report, The
61 Huffington Post, Fox News, MSNBC, CNN, the Wall Street
62 Journal, and the New York Times. You can get it all right
63 there. We live in an era of a 24-hour news cycle and on-
64 demand national media, but our laws assume a world where
65 local newspapers and broadcast stations are so influential
66 that economies of scale are dangerous to the public interest.
67 While proponents of the status quo express their love of
68 localism and the laws intended to guarantee it, I fear that

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69 laws intended to ensconce our love of local media are, in
70 fact, loving it to death.

71 Promoting localism is a goal that we all share; but
72 localism is not cheap. Producing the kind of high-quality
73 content that has been the hallmark of American broadcasting
74 is an expensive labor of love for local broadcasters and
75 newspapers, and as Americans' habits have changed, so too
76 should the way we look at local media. We live in a
77 competitive landscape where increasingly we cherry-pick
78 articles; we scroll through feeds and aggregators; and we
79 have multiple national news programming options, and we DVR
80 almost everything to time-shift the programming that we love.
81 It is a different world, so why don't our media laws reflect
82 these changes?

83 The fact is, the FCC has tried to change these rules as
84 early as its 2002 review of media ownership rules, when it
85 recognized the competitive force of the Internet. The
86 Commission would have done away with the ban on cross-
87 ownership of a daily newspaper and a broadcast station, and
88 expanded the caps on local ownership of television and radio
89 stations, but the courts overturned the FCC's proposed rule,

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90 not because it believed that repeal was unreasonable. In
91 fact, the court determined that, and I quote, ``reasoned
92 analysis supports the Commission's determination that the
93 blanket ban on newspaper/broadcast cross-ownership was no
94 longer in the public interest.'' The Third Circuit threw out
95 the proposed new rules because it thought the Commission
96 relied too heavily on the Internet as a significant
97 competitive factor. I wonder what the court would say today
98 if the same proposal were before it, now that newspapers'
99 annual revenues are down more than half since 2003. Would
100 the same bench consider the Internet a significant
101 competitive factor now that the average online video ad often
102 out-prices national TV day-parts?

103 Sadly, following two court losses, it seems that for a
104 while the FCC simply gave up on trying to save this industry
105 from antiquated regulation. The Commission failed to
106 complete the 2010 quadrennial review; its statutorily-
107 mandated review of media ownership rules, and instead has
108 doubled down by making changes that make it more difficult
109 for local media to compete. The Commission's recent
110 decisions to unwind many joint sales agreements and to look

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111 askance at shared service arrangements ignore the realities
112 of the broadcast business and are affirmatively harmful to
113 the localism they purport to protect.

114 I am happy to see that the Commission intends to return
115 to reasoned rulemaking consistent with its statutory mandate.
116 Chairman Wheeler has announced his intention to comply with
117 the law and complete the 2014 quadrennial review in a timely
118 manner. And while the law is very specific in the
119 Commission's mandate to deregulate media ownership where
120 warranted, given the recent set of FCC decisions, I am, to
121 quote the man for whom this room is named, ``comforted very
122 little.'' Without relief, I fear that local broadcast and
123 newspaper companies will continue to struggle against
124 unregulated competitors whose businesses are not hamstrung by
125 decades-old regulatory assumptions. Newspaper classified
126 advertising peaked in 2000 at \$19.6 billion. In 2012,
127 classified advertising brings in \$4.6 billion. That is a 77
128 percent drop in revenues just from classified advertising,
129 primarily due to shifts in classifieds to such Internet
130 entities as Craigslist. Unsurprisingly, hundreds of
131 newspapers have shuttered operations or migrated to digital-

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132 only since '07, and the U.S. has lost, lost 62 daily
133 newspapers since 2004.

134 We are all committed to promoting a local media industry
135 that is healthy; to fostering competition, localism, and
136 diversity of voices, and to ensuring that local media
137 continues to serve the needs of their communities, but
138 pretending that laws designed for an era before smartphones
139 and the Internet will get the job done is an effective death
140 sentence for many local media outlets.

141 I would like to thank our witnesses again for joining us
142 today to offer their opinions on these matters. We
143 appreciate your taking the time, and we look forward to your
144 testimony.

145 [The prepared statement of Mr. Walden follows:]

146 ***** COMMITTEE INSERT *****

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147 Mr. {Walden.} And with that, I would recognize the
148 ranking member of the subcommittee, the gentlelady from
149 California, Ms. Eshoo, for her opening statement.

150 Ms. {Eshoo.} Thank you, Mr. Chairman. And welcome to
151 the witnesses, and thank you for being willing to testify
152 today at this important hearing that the chairman has called.

153 I believe that one of the most important manifestations
154 of a vibrant democracy is that there are many voices speaking
155 to the many, and so whatever I say in my opening statement
156 really fits in with that principle because I think it is such
157 an essential one, and I think it is one that should guide us
158 in everything that we do relative to these undertakings in
159 the examination of media ownership in this, the 21st century.

160 In an era when corporate media outlets have become
161 increasingly concentrated in the hands of a few
162 conglomerates, our goal, and the chairman mentioned this,
163 should be to promote localism, advance competition, and
164 encourage diversity, not to roll back what few protections we
165 have in these key areas. I would like to put forward some
166 facts that I find troubling. Despite a national broadcast

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167 television ownership cap, 10 station groups now own over 650
168 stations, or nearly 1/2 of all commercial full-powered
169 broadcast stations in the United States. The source of that
170 is free press. Ten companies control 55 percent of all local
171 TV advertising revenues. Twenty-five percent of the Nation's
172 952 local news stations do not produce their newscast
173 themselves. You combine these statistics with the fact that
174 20 out of the top 25 news Web sites rely heavily or even
175 exclusively on news gathered from traditional media sources,
176 such as a daily newspaper, broadcast network or a cable news
177 network, and you have a picture of what I think is an
178 unhealthy media landscape.

179 So as the FCC takes steps to close existing loopholes in
180 its rules, I am pleased that the Agency is moving forward
181 with its review of our Nation's broadcast ownership rules.
182 The completion of the long overdue 2010 quadrennial review
183 and the 2014 review will ensure the FCC can fully assess the
184 impact of further consolidation on ownership, diversity and
185 localism in our Nation's media system. And while some have
186 criticized the FCC for cracking down on sidecar deals before
187 concluding its 2010 review, I think that the Agency has an

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188 obligation to enforce the existing rules on the books,
189 regardless of the outcome of its review.

190 Congress has long entrusted the FCC with upholding the
191 core values of competition, localism and diversity of media,
192 and while the media landscape may change, and we welcome
193 those changes, the role that these values play in
194 advancing public disclosure and strengthening our democracy,
195 I think, should remain intact.

196 So again, thank you to our witnesses, and I would like
197 to not only submit for the record a letter written by Common
198 Cause, Mr. Chairman, supporting FCC action on JSA's, and I
199 would like to yield the remainder of my time to Mr.
200 Butterfield.

201 [The prepared statement of Ms. Eshoo follows:]

202 ***** COMMITTEE INSERT *****

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|

203 Mr. {Walden.} Without objection.

204 [The information follows:]

205 ***** COMMITTEE INSERT *****

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|

206 Ms. {Eshoo.} Thank you.

207 Mr. {Butterfield.} I thank the ranking member for
208 yielding this morning, and certainly thank you for your
209 passion on diversity. It is very much appreciated.

210 Mr. Chairman, I offer the following statement. African-
211 Americans, Hispanic-Americans and Asian-Americans own a
212 combined 3 percent of all full-powered, commercially owned
213 and operated TV stations here in the United States, and the
214 number for radio are not much better. Access to capital,
215 consolidation and outdated ownership rules further stifle
216 minority ownership. Increasing diversity ownership is
217 important. It ensures the content--that content will be
218 delivered in formats that mirror the cultural experiences of
219 our citizens, and generates economic opportunities for the
220 Nation, particularly as these companies create and maintain
221 jobs. The future of our media will also be dependent upon
222 our ability to factor-in the impact of emerging and evolving
223 digital technologies on traditional media models. The FCC
224 regularly says that diversity is one of its objectives, but
225 the 2014 quadrennial NPRM doesn't reflect that commitment.

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226 Some proposals, including legislative ones pending for 20
227 years, were reduced to footnotes. Many of those proposals
228 were supported by the FCC's own Diversity Advisory Committee.

229 I am hopeful, Mr. Chairman, the FCC's long-awaited
230 further notice of proposed rulemaking for 2014, if not done
231 correctly, will seek to gather data that will help us to
232 address the disparities that exist in minority media
233 ownership. We must increase meaningful media ownership
234 opportunities for people of color. That is the point I am
235 trying to make.

236 Thank you very much. I yield back to you--to the
237 ranking member.

238 [The prepared statement of Mr. Butterfield follows:]

239 ***** COMMITTEE INSERT *****

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240 Ms. {Eshoo.} And I yield back, Mr. Chairman. Thank
241 you.

242 Mr. {Butterfield.} Mr. Chairman, I failed to do one
243 thing. If I momentarily could ask--

244 Mr. {Walden.} Of course.

245 Mr. {Butterfield.} --unanimous consent to include in
246 the hearing into the record a letter dated June 10, 2014,
247 addressed to you and to the ranking member.

248 Mr. {Walden.} I believe so, yes. Without objection.

249 [The information follows:]

250 ***** COMMITTEE INSERT *****

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251 Mr. {Butterfield.} All right. Thank you.

252 Mr. {Walden.} Are there any members on our side seeking
253 an opening statement? Okay. Mr. Waxman, I would turn to
254 you.

255 Mr. {Waxman.} Thank you very much, Mr. Chairman.

256 Americans have more choices today than ever before about
257 where to get news, information, entertainment. Broadband and
258 mobile platforms are altering how content is produced and
259 consumed, but these incredible new innovations do not alter
260 key policy goals, promoting localism, diversity and
261 competition in the media. These core values represent a
262 commitment that stretches all the way back to the founding of
263 our country. They have animated the FCC's policies for
264 nearly a century. A commitment to localism means timely
265 delivery of news and information relevant to our daily lives,
266 such as emergency alerts in a time of crisis. Competition
267 means original, in-depth reporting that not only informs and
268 educates the public, but helps distinguish the quality of
269 journalism. Striving for diversity helps the delivery of a
270 wealth of perspectives that more closely reflect the diverse

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271 makeup and experiences of our community.

272 The FCC's longstanding media cross-ownership rules are
273 tools for preserving these values. Despite the wonder and
274 power of the Internet, broadcasters and newspapers continue
275 to be the dominant sources for local news and information
276 across old and new medium. That makes these rules relevant
277 even today.

278 Under both Democrats and Republicans, the FCC has tried
279 to revise the media ownership rules, but the Agency has
280 little success in navigating the legal, political and
281 resources challenges in meeting the congressional directive
282 to review these rules every 4 years. Chairman Wheeler has
283 appropriately set a deadline to complete the long-overdue
284 2010 quadrennial review, and the currently-pending 2014
285 quadrennial review. As the Agency works to complete these
286 reviews, I believe it is time for Congress to examine whether
287 this statutory mandate is still helpful or necessary.

288 One constructive step the FCC has recently taken is
289 closing a loophole created by the proliferation of joint
290 sales agreements between broadcasters. The FCC struck the
291 right balance in adopting rule changes to end JSA's

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292 manufactured solely to evade the media ownership rules, while
293 allowing truly beneficial ones to continue through waivers.
294 The committee worked on a bipartisan basis in the recently
295 reported Satellite Reauthorization Bill to provide incentives
296 for broadcasters to file timely requests for waivers, and the
297 FCC to expeditiously act on them.

298 A key consideration for the FCC should be helping ensure
299 the health of the newspaper sector, which has been challenged
300 by the growth of online news. A broadcast company that wants
301 to invest in a newspaper could be a boon to a struggling
302 newspaper, but one that wants to raid its assets could hasten
303 its demise.

304 These are not just theoretical questions. Late last
305 year, the Tribune Corporation, the owner of the Los Angeles
306 Times, other newspapers and broadcast stations across the
307 country, announced that they would be spinning off its
308 newspaper holdings, including the LA Times. The original
309 terms would have forced the LA Times to rent its own building
310 from the Tribune Company, and to borrow over \$300 million to
311 pay a cash dividend to the Tribune Corporation. I raised
312 questions and consulted with independent media experts who

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313 advised that the terms could cripple the LA Times. To its
314 credit, the Tribune Corporation has recently reduced the size
315 of the cash payment it will demand from the newspaper, LA and
316 other newspapers. I hope it will take further steps to
317 ensure the viability of the Times before the deal is
318 complete.

319 Finally, our discussion today would be incomplete
320 without an examination of the miserable state of media
321 ownership diversity. Women and minorities represent a tiny
322 fraction of the owners and decision-makers in the media
323 companies that shape our national discourse. The FCC has had
324 great difficulty crafting policies that could improve
325 ownership diversity and survive legal challenge. I hope
326 today's witnesses can bring some fresh thinking and new ideas
327 to help advance this issue, which is so critical for a
328 healthy democracy.

329 I thank all the witnesses for being here today. I must
330 apologize in advance that I have to be present at another
331 subcommittee, and won't be here for all of your testimony. I
332 will try to get back for questions, but I appreciate your
333 participation and I look forward to reviewing what you have

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334 to say, both orally and your written submissions.

335 Thank you, Mr. Chairman. Yield back my time.

336 [The prepared statement of Mr. Waxman follows:]

337 ***** COMMITTEE INSERT *****

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338 Mr. {Walden.} Thank you, Mr. Waxman. And I will turn
339 now to the vice chair of the subcommittee, Mr. Latta, for
340 opening comments.

341 Mr. {Latta.} Well, thank you, Mr. Chairman, and thank
342 you very much for holding today's hearing, and I appreciate
343 all the witnesses being with us today.

344 The media landscape, much like many other sectors in the
345 communications and technology industry, has evolved
346 considerably over the last 20 years. With the introduction
347 of the Internet and digital technology, we have seen
348 convergence, increased competition, innovative content
349 delivery services, and in rapidly-shifting preferences and
350 consumer demand, come to define the media market, however,
351 many of the laws that govern this space are outdated. As a
352 result, long-time industry participants that are subject to
353 these rules and regulations are placed at a competitive
354 disadvantage to newer market entrants. This has thwarted
355 their ability to flexibly and quickly respond and compete in
356 this dynamic marketplace. Of particular concern is the FCC
357 has been negligent in completing its mandatory review of the

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358 media market that could help address today's competitive
359 realities.

360 As we continue our efforts to examine the Communications
361 Act, and consider updates to the law that would better
362 reflect the 21st century communications landscape, I look
363 forward to the hearing and hearing from our witnesses today,
364 and the currently regulatory framework governing media
365 ownership and the impact that it is having on businesses,
366 consumers and the economy.

367 And, Mr. Chairman, if I could, I would yield to the
368 gentleman from Illinois.

369 [The prepared statement of Mr. Latta follows:]

370 ***** COMMITTEE INSERT *****

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371 Mr. {Shimkus.} I want to thank my colleague. I want to
372 welcome you all here.

373 The--there is no reason why the 2010 and 2014 review--
374 quadrennial review has not been filed. It is just not
375 complying with the law, and it is a failure of the
376 bureaucracy and the Federal Government to do its job. Having
377 said that, one reason why, because this sector is moving so
378 fast, I mean how do you get a handle on it? Late-breaking
379 story last night. How did I find out about it? Someone did
380 a Twitter feed that one of my staff members picked up and
381 emailed to me. I didn't get it over broadcast, I didn't get
382 it over cable, I didn't get it over radio, I definitely
383 didn't get it out of print media, I got out of this new world
384 age of information flow.

385 There is more access to information now than ever
386 before. These media ownership rules stifle the ability for
387 localism in rural America.

388 I look forward to this hearing and I thank you all for
389 coming.

390 [The prepared statement of Mr. Shimkus follows:]

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391 ***** COMMITTEE INSERT *****

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392 Mr. {Butterfield.} Mr. Chairman, I--

393 Mr. {Walden.} Gentleman yields back the balance of his
394 time. All the opening statements are concluded, and we will
395 now go to testimony from our witnesses.

396 And again, we thank you all very much for the work you
397 have put into your testimony.

398 We will start off with Mr. William T. Lake, who is the
399 Chief of the Media Bureau of the Federal Communications
400 Commission. Mr. Lake, we are delighted to have you here
401 before the subcommittee. Pull that microphone pretty close
402 to your mouth or we won't be able to hear your fine words,
403 sir. So thank you, and please--we look forward to your
404 testimony.

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405 ^STATEMENTS OF WILLIAM LAKE, CHIEF, MEDIA BUREAU, FEDERAL
406 COMMUNICATIONS COMMISSION; JESSICA GONZALEZ, EXECUTIVE VICE
407 PRESIDENT AND GENERAL COUNSEL, NATIONAL HISPANIC MEDIA
408 COALITION; BERNARD LUNZER, PRESIDENT, NEWSPAPER GUILD-CWA;
409 PAUL BOYLE, SENIOR VICE PRESIDENT OF PUBLIC POLICY, NEWSPAPER
410 ASSOCIATION OF AMERICA; DAVID BANK, MANAGING DIRECTOR, GLOBAL
411 MEDIA EQUITY RESEARCH, RBC CAPITAL MARKETS; AND JANE MAGO,
412 EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, LEGAL AND
413 REGULATORY AFFAIRS, NATIONAL ASSOCIATION OF BROADCASTERS

|

414 ^STATEMENT OF WILLIAM LAKE

415 } Mr. {Lake.} Thank you. Good morning, Chairman Walden,
416 Ranking Member--

417 Mr. {Walden.} You really are going to have to pull this
418 just about like that.

419 Mr. {Lake.} How is that? Okay?

420 Mr. {Walden.} That is much better.

421 Mr. {Lake.} Good morning, Chairman Walden, Ranking
422 Member Eshoo, and members of the subcommittee. My name is

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423 Bill Lake, I am the Chief of the Media Bureau at the FCC, and
424 I am very happy to be with you today.

425 I would like to highlight a few points from my written
426 statement about the actions that the Commission and the Media
427 Bureau took in March relating to media ownership.

428 First, the quadrennial review. The FCC is very aware of
429 its responsibility to review its media ownership rules every
430 4 years. As you know, in March, the Commission began its
431 most recent review, adopting a further notice that builds on
432 the record of the ongoing 2010 proceeding. The further
433 notice analyzes the evidence to date on each of the rules,
434 and discusses the diversity issues remanded to the Commission
435 by the Third Circuit.

436 I recognize that some observers, including members of
437 the subcommittee, are concerned that the Commission has yet
438 to complete its 2010 quadrennial review. As Chairman Wheeler
439 noted in March, the Commission's inability to complete that
440 review was not for lack of effort. We began the proceeding
441 early in November 2009, compiled an extensive record, and
442 circulated a proposed Order in 2012, which remained before
443 the Commission for over a year but failed to receive a

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444 majority. The further notice will enable all interested
445 parties to supplement the record with information about the
446 2014 marketplace. The chairman has committed to present
447 recommendations to the commissioners by June 30, 2016.

448 Second, shared services agreements, or SSA's. As part
449 of the further notice, the Commission sought to improve its
450 understanding of the sharing of services between separately-
451 owned TV stations. The Commission does not now require SSA's
452 to be disclosed, and that makes it hard for us or the public
453 to know what impact these agreements may have on our
454 policies. The further notice invites comment on whether and
455 how best to disclose SSA's.

456 Third, TV joint sales agreements or JSA's. The
457 Commission also adopted a report and order on TV JSA's.
458 JSA's are agreements between stations in which one station
459 sells advertising time on behalf of the other. Typically,
460 all of it. Unlike SSA's, they are well known to the
461 Commission. We have long recognized our duty to identify any
462 interests that give holders a realistic potential to
463 influence a station's programming or operations. We treat
464 such interest as attributable, that is, we count the stations

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465 as being commonly owned for purposes of our ownership rules.
466 The Commission tentatively concluded in 2004 that it should
467 attribute TV JSA's just as it had done for radio JSA's in
468 2003. The rationale is that someone who controls a station's
469 main source of revenue has a significant potential to
470 influence the station's operations.

471 Based on the record, and in light of the growing
472 prevalence of TV JSA's, the Commission decided that it should
473 attribute these agreements with a 2-year transition period
474 for existing JSA's, as we had done for radio.

475 Finally, I can provide a bit of context for the Media
476 Bureau's public notice in March, which gave guidance to the
477 industry on how the Bureau will process pending and future TV
478 license transfer applications. In releasing the public
479 notice, the Bureau sought to provide greater transparency to
480 the industry about concerns that had come to light in our
481 review of proposed license transfers. Transactions we have
482 seen in recent years have involved increasingly complex
483 relationships between stations that our rules do not allow to
484 be jointly owned. In particular, more and more transactions
485 involve combinations of sharing arrangements and financial

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486 ties, such as options and loan guarantees. We have found
487 that determining the economic effects of a transaction
488 requires much more extensive analysis when stations have such
489 complex entanglements, and though we must decide each case on
490 its particular facts, case-by-case decisions by themselves
491 may not give broadcasters the predictability they want as
492 they structure deals.

493 The public notice is intended to increase transparency
494 by making sure that broadcasters appreciate that deals
495 involving complex interrelationships require more extensive
496 review, and by highlighting the combinations of relationships
497 that we have found most troubling as we evaluate whether one
498 station may have undue influence over another. By arming the
499 parties with this knowledge, we sought to guide them as they
500 structure future deals or consider amendments to pending
501 transactions. From what we have seen so far, this increased
502 transparency has been helpful. Far from coming to a halt,
503 deal-making in the industry continues. Since mid-March, we
504 have approved the sale of 36 full power stations,
505 representing 12 different deals.

506 Again, thank you for the opportunity to be here today,

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507 and I am happy to take any questions.

508 [The prepared statement of Mr. Lake follows:]

509 ***** INSERT 1 *****

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|

510 Mr. {Walden.} Mr. Lake, thank you for your service and
511 for your testimony. We look forward to continuing the
512 discussion.

513 We will now go to Jessica J. Gonzalez, Executive Vice
514 President and General Counsel, the National Hispanic Media
515 Coalition. Ms. Gonzalez, thank you for being here. Please
516 go ahead.

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|

517 ^STATEMENT OF JESSICA GONZALEZ

518 } Ms. {Gonzalez.} Thank you, Chairman Walden, Ranking
519 Member Eshoo, and members of the subcommittee.

520 I represent the National Hispanic Media Coalition, a
521 media advocacy and civil rights organization working towards
522 a media that is fair, inclusive and accessible to all people.

523 What happens in an overly-consolidated media system that
524 fails to reflect American multiculturalism? Here is an
525 example from the radio industry, which is already plagued by
526 major consolidation. On Clear Channel radio stations across
527 the country, listeners are fed a steady diet of racism and
528 stereotyping. According to some Clear Channel pundits,
529 Latinos and African-Americans are dangerous, Asians are
530 cheaters, women are sluts, immigrants are animals. At a time
531 when this country should be developing its proud,
532 multicultural identity, instead, this dehumanization of women
533 and people of color is normalized over the public airwaves.

534 We as parents of young children of color and young girls
535 have to figure out how to explain these slurs to our

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536 children, who don't see color, but yet are told at a young
537 age that they are different or they are feared, or they are
538 less than. The harms of this rhetoric are deep and well
539 documented. Clear Channel has 850-plus stations in over 150
540 cities across the country. It exploits the lack of strong
541 radio ownership limits to insulate its stations from free
542 market accountability mechanisms, such as losing audience
543 share or revenue. It is totally out of touch with the
544 communities it serves.

545 Media ownership limits are vital to the health of our
546 democracy. These content and race-neutral rules promote
547 ownership diversity, viewpoint diversity, localism and
548 completion. Broadcasters and newspapers play a critically
549 important role in informing Americans, and influencing
550 attitudes towards people of color and women. Broadcast TV
551 and radio reach over 98 percent of us, and reliance on over-
552 the-air TV is prevalent in poor, rural and non-English-
553 speaking communities.

554 Internet sources are far from achieving parity with
555 broadcasters when it comes to disseminating information,
556 particularly local news. First of all, 1 in 3 Americans does

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557 not have home broadband access. Rural communities, Latinos,
558 African-Americans, seniors, the poor, people with
559 disabilities, and non-English-speakers are far less likely to
560 be connected to the Internet. And traditional media sources
561 like broadcasting and newspapers are still responsible for
562 the vast majority of online local news and information. The
563 courts, Congress and the FCC have long recognized a nexus
564 between minority ownership and broadcasting diversity, yet
565 people of color, who make up more than 36 percent of the U.S.
566 population, own less than 3 percent of TV stations. Women
567 own less than 7 percent. Media consolidation and joint sales
568 agreements that allow big media companies to circumvent the
569 ownership rules are bad for diversity.

570 Immediately after the 1996 Act, relaxed ownership limits
571 and the minority tax certificate was abandoned, women and
572 people of color were pushed from the market as conglomerates
573 grew. According to a 1997 NTIA report, relaxed ownership
574 limits created a significant competitive advantage for group
575 owners who are more likely to be non-diverse and have greater
576 financial resources. That media concentration drove up
577 station prices.

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578 The FCC's recent JSA ruling, on the other hand, creates
579 opportunities for diverse owners and small businesses to
580 enter the market.

581 An agency envisions a country in which broadcasters
582 reflect American multiculturalism and serve the information
583 needs of all communities. Promoting diversity and localism
584 with strong media ownership rules within the FCC's existing
585 regulatory framework, and using your law-making power to
586 reinstate the minority tax certificate, are important steps
587 towards achieving that vision.

588 Thank you and I look forward to questions.

589 [The prepared statement of Ms. Gonzalez follows:]

590 ***** INSERT 2 *****

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|

591 Mr. {Walden.} Ms. Gonzalez, thank you for your powerful
592 testimony. We appreciate your comments.

593 We will now turn to Mr. Bernard Lunzer, President of the
594 Newspaper Guild-CWA. Mr. Lunzer, thank you for being here.

595 We look forward to your testimony as well, sir.

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|

596 ^STATEMENT OF BERNARD LUNZER

597 } Mr. {Lunzer.} Thank you, Mr. Chairman, Ranking Member
598 and the committee for allowing me to testify.

599 News Guild-CWA represents workers in broadcast, print
600 and digital. Our sister sector, NABET-CWA, represents
601 workers throughout broadcast. Along with our employer rep,
602 some of them that are here, we seek solutions to the current
603 challenges in media.

604 The Internet will continue its disruption of media,
605 while also offering room for innovation and new revenue.
606 Right now, there are no simple solutions or clear ways
607 forward.

608 We support Chairman Wheeler's state intent to rein-in
609 JSA's, study shared service agreements, and maintain the
610 status quo on cross-ownership between print and broadcast.
611 Further consolidation will not help. It is not about saving
612 call letters, NASTAD's or Web sites, if they only duplicate
613 information from elsewhere. JSA's, SSA's and more cross-
614 ownership will result in fewer employees, less news coverage,

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615 and less diversity in both areas. It also will not stimulate
616 diversity in ownership.

617 Already, JSA's and SSA's have substantially reduced
618 coverage in towns like Youngstown, Ohio, and Honolulu,
619 Hawaii. In Youngstown, for example, four TV stations are
620 operated by Lynn Media, with duplicated material being
621 presented on those stations. Lynn Media is in competition
622 with two other stations that are owned and operated in
623 conjunction with the Youngstown Vindicator newspaper. When
624 Lynn consolidated stations, it eliminated most newsroom jobs
625 in the accreted newsrooms. The Vindicator and its broadcast
626 stations have small staffs in their newsrooms and share
627 material. Overall, employment has shrunk and diversity of
628 coverage as well. Cable, by the way, adds almost nothing
629 locally.

630 We are often told that combinations allow for more
631 coverage. That is just not the case, as the efficiencies are
632 used purely to increase profitability through less staff.

633 Honolulu is a similar case to Youngstown, and well
634 documented. Three of five stations operate as if they were a
635 single news operation, with almost identical news,

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636 significantly diminishing local coverage.

637 In Syracuse, New York, and Peoria, Illinois, Granite and
638 Barrington Broadcasting swapped and combined news operations
639 in each city. Our union commissioned a national study by--
640 done by the University of Delaware. The study reported that
641 7--70 workers were laid off and 16 were reassigned.
642 Barrington Broadcasting now runs 3 stations in Syracuse with
643 the same news staff. The Syracuse and Peoria markets both
644 lost competing and different points of view in news coverage
645 through duplication.

646 We get to a station where some broadcast stations--we
647 get to a situation where some broadcast stations are
648 essentially zombies. Broadcasting continues but there are
649 few, if any, employees involved. The JSA's allow for
650 consolidation on the advertising side.

651 We believe the goal of restricting JSA's where more than
652 15 percent of sales are attributed to another station is a
653 good one. We also agree with the FCC about studying SSA's to
654 see if similar restrictions would be in order. There needs
655 to be a procedure and a test to revive such stations,
656 allowing for more hiring, diversity of coverage, and the

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657 potential, the potential for diversity of ownership. The FCC
658 is on the right track, if that really is the goal.

659 Again, further concentration will make this worse. The
660 status quo continues the current dilemma. Only new
661 guidelines will provide for a better competition, and a
662 robust landscape that may allow for diversity of ownership,
663 which is at scandalous levels, as has already been discussed
664 here.

665 Let me also strike at the heart of the myth of diverse
666 content, because the Internet is adding so many voices. This
667 is a very important point. Much of what the Internet has
668 added is opinion, not well-sourced and not particularly
669 helpful. A Pew Study of Baltimore Tribune Paper in 2012
670 demonstrated that although there were 53 news outlets for
671 local content, 83 percent of stories were repetitive, with no
672 new information. Legacy print content providers accounted
673 for 48 percent of content, with local broadcast providing
674 about 1/3. Almost no breaking information came from the non-
675 legacy platforms. Since the study, the Sun--the Baltimore
676 Sun, the principle Provider of news, has shrunk
677 substantially.

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678 As a labor union that cares deeply about democracy, we
679 believe further concentration will mean less credible news
680 and information to citizens as major debates take place over
681 the future of America. Citizens should expect their rights
682 to be paramount over broadcasters, as has been established in
683 law. We need real innovation and investment as we continue
684 forward in the 21st century. Consolidating existing
685 organizations with fewer employees does not get us there.

686 I would also note that the breaking news last night on
687 the Virginia election, I got that through a print source that
688 actually came in through a Tweet. The original news actually
689 came from a print organization.

690 I look forward to any questions. Thank you.

691 [The prepared statement of Mr. Lunzer follows:]

692 ***** INSERT 3 *****

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|

693 Mr. {Walden.} Mr. Boyle, you are now recognized for
694 your 5 minutes.

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|

695 ^STATEMENT OF PAUL BOYLE

696 } Mr. {Boyle.} Congressman Terry, Ranking Member Eshoo,
697 and members of the subcommittee, on behalf of our 2,000-plus
698 member newspapers, thank you for providing this opportunity
699 to testify.

700 The subcommittee's focus on Media Ownership in the 21st
701 Century is appropriate. Many of our ownership regulations
702 are creatures of the 20th century, and are no longer suitable
703 for today's multimedia world. My testimony will focus on one
704 such outdated regulation; the newspaper/broadcast cross-
705 ownership ban. The FCC adopted this ban in 1975. The rule
706 prohibits investors from owning both a daily newspaper and a
707 television or radio station in the same market. At the time,
708 the Commission feared that one owner could control all of the
709 news and editorial viewpoints in a community.

710 Many ideas that sounded perfectly reasonable in 1975 now
711 appear behind the times. Those were the days of a single
712 nationwide telephone company, gasoline rationing and
713 bellbottoms. Today's media ownership regulations must

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714 reflect today's media. You recognized this need when, in
715 1996, you required the FCC to conduct a comprehensive review
716 of its media ownership regulations every 4 years, and to
717 repeal or modify any regulation that it determines to be no
718 longer in the public interest. Well, NAA is getting ready to
719 file comments in the Commission's eighth proceeding in nearly
720 20 years, examining the validity of the 1975 cross-ownership
721 ban. Remarkably, none of these proceedings has resulted in
722 any changes in the rule, creating an endless cycle of
723 regulatory uncertainty for newspapers and broadcasters. We
724 all know that American consumers have access to more
725 information and viewpoints today than ever before. According
726 to a recent report on the personal news cycle, the average
727 American recalled getting her news from between 4 and 5
728 different sources in a week, and new digital news players
729 have exploded on the scene. This same report found that
730 nearly 1/2 of those surveyed received their news from Online-
731 only reporting sources. Quite simply, there are no longer
732 any barriers to entry in the distribution of news and
733 information. However, in-depth investigative original
734 reporting that is professionally edited takes a substantial

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735 commitment of resources. Newspapers have always made this
736 commitment.

737 Some have argued that the repeal of the cross-ownership
738 ban will lead to a massive wave of mergers. Nothing could be
739 further from the truth, but in light of rapid changes in
740 media consumption, some newspapers likely will come on the
741 market. The ban reduces the number of potential buyers who
742 might want to invest in a newspaper, including an owner of a
743 broadcast station with deep resources and a commitment to
744 journalism. And when local television or radio stations
745 become available for sale, the only media companies that are
746 barred from bidding on them are newspaper companies;
747 companies that have had a long history of producing local
748 news in that community.

749 Some of the Nation's top journalism has occurred in
750 communities that have cross-owned newspapers and broadcast
751 stations. For example, two of the primary news sources that
752 broke and dug deep into the story about mismanagement at the
753 Department of Veterans Affairs were newspaper-television
754 combinations in Arizona and Ohio. This was not a surprise.
755 Public service journalism is a part of their DNA.

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756 According to FCC Commission research, a cross-owned
757 television station produces 50 percent more local news,
758 devotes 40 percent more time to candidate speeches, and airs
759 30 percent more coverage of state and local political
760 candidates. Removing the cross-ownership restriction would
761 serve, not harm communities. It is time to eliminate this
762 barrier that has stifled much-needed investment in local
763 journalism.

764 Thank you and I look forward to your questions.

765 [The prepared statement of Mr. Boyle follows:]

766 ***** INSERT 4 *****

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|

767 Mr. {Walden.} Mr. Boyle, thank you for your testimony.

768 We will now go to Mr. David Bank who is the Managing Director
769 of RBC Capital Markets.

770 Mr. Bank, we especially appreciate your testimony today,
771 and look forward to hearing it. So thanks for being here.

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|

772 ^STATEMENT OF DAVID BANK

773 } Mr. {Bank.} Thank you. Okay, good morning.

774 Mr. {Walden.} You have to push that little button right
775 there in front. There we go.

776 Mr. {Bank.} Shows my lack of governmental experience.
777 Thank you.

778 Good morning, Chairman Walden, Ranking Member Eshoo, and
779 members of the subcommittee. My name is David Bank and I am
780 a managing director and the equity research analyst
781 responsible for covering the media sector at RBC Capital
782 Markets.

783 RBC Capital Markets is the corporate and investment
784 banking arm of the Royal Bank of Canada; Canada's largest
785 bank and the twelfth largest bank in the world, based upon
786 market capitalization.

787 I primarily advise institutional clients such as pension
788 funds and mutual fund managers with respect to broader themes
789 and specific company fundamentals in the media industry. I
790 help advise investors with respect to how they should be

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791 positioned in the media space, given current and future
792 industry dynamics. I have covered the media space for
793 approximately the last 15 years, during which a tremendous
794 amount of change has occurred in the broad media landscape,
795 especially with respect to three things: the first, how
796 consumers apportion their time consuming different media; the
797 second, the new media outlets that have become available to
798 those consumers; and third, the business models available to
799 those operators, and the competitive forces within the media
800 space.

801 Much has already been made of the fact that the current
802 regulatory framework for media ownership dates back to 1975
803 for newspaper cross-ownership, and basically, to the late
804 20th century for much of the framework for TV and radio
805 broadcast with respect to both cross-ownership and single
806 media ownership concentration across single markets, as well
807 as in the U.S. in totality.

808 The financial markets, the capital markets, are keenly
809 aware that this regulatory framework was created before the
810 dynamically changing nature of the media ecosystem, that has
811 overtaken us at light speed over the past few years, had been

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812 developed. The financial and capital markets are even more
813 keenly aware that consumer behavior itself has changed
814 massively as a result of the evolving ecosystem.
815 Specifically, the current regulatory framework was
816 constructed in a media ecosystem that basically didn't
817 include the Internet. While it may have contemplated a broad
818 PC-based Internet consumption environment, it certainly
819 didn't contemplate a mobile application-based ecosystem. For
820 an illustration of this point, I would ask you to look at
821 Exhibit 1. As you can see, hopefully, from this exhibit,
822 about 45 percent of consumers' media time is now spent on
823 either the Internet, on PC or some sort of mobile
824 application. That is 45 percent. We think this is a
825 reasonable starting point to view the framework through which
826 we might want to evaluate the relevance of current rules to
827 the existing ecosystem.

828 In terms of traditional media, there is probably no
829 surprise that consumers still spend more of their time with
830 television than any other medium, as they have for decades,
831 including the time period in which the current regulatory
832 framework was constructed. However, the consumption within

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833 the TV paradigm has shifted greatly in a way not necessarily
834 reflected in a regulatory paradigm shift. The primary shift
835 has been the consumption of TV moving meaningfully from a
836 world dominated by broadcast content, to an increasingly
837 fragmented one where the American viewer now consumes the
838 majority of TV content from dual-stream advertiser and
839 subscription fee-supported cable channels.

840 Exhibit 2 illustrates, even 10 years ago, the majority
841 of adult 18 to 49 primetime audiences was not on the big 4
842 networks, but rather skewed slightly more toward non-
843 broadcast. Today, that shift is even more pronounced with
844 broadcast controlling only about 1/3 of the primetime
845 audience. As a result, it is clear to us that broadcast TV
846 regulation should probably consider a framework in which paid
847 TV in total, as an ecosystem, is a competitor. This is the
848 case in small and big markets alike.

849 Further, TV isn't the only medium that has seen an
850 increased fragmentation audience over the past 15 years. The
851 radio ecosystem has clearly undergone an evolution beyond
852 simply a broadcast transmitter since the time when the
853 regulatory framework was constructed. Broadcast radio has

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854 probably been less impacted by the advent of traditional
855 subscription services, such as Sirius satellite radio, than
856 the television ecosystem, despite the fact that Sirius has 26
857 million paying subs today with millions more of trials and
858 inactive radios currently on the road just waiting to be
859 activated. This has eaten into traditional radio's share of
860 the audience on some level, but radio has been more directly
861 impacted by the advent of the Internet, with services such as
862 Pandora, Spotify or download and podcast services on iTunes,
863 especially on a non-subscription basis. Simply considering,
864 digital radio services offers a framework for which the world
865 has dramatically changed.

866 Digital's audience skews younger, but the trend of total
867 population penetration is irrefutable, as illustrated in
868 Exhibit 3. Digital radio listeners are now at mass market
869 proportions, representing just more than 1/2 the population
870 and 2/3 of Internet users. Clearly, the game has changed in
871 radio with respect to consumer behavior. This has also put
872 some pressure on the typical radio business model.

873 The newspaper business model is not a major focus in our
874 coverage universe, but it is quite clear that the industry

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875 has undergone a great deal of tumult, in no small part due to
876 changes in consumer behavior and alternatives as well. Most
877 specifically, consumers simply have more choices with how to-
878 -with respect to how to consume news.

879 In 1975 when the newspaper/TV cross-ownership rules were
880 essentially constructed, consumers had no digital or cable
881 news choices. By 2003, over 10 years ago, consumers were
882 getting 20 percent of their news from online sources. Today,
883 that figure is around 40 percent, as illustrated in Exhibit
884 4. That is an astounding change in consumer behavior, having
885 a material impact on the ecosystem.

886 The bottom line regarding these shifts in the ecosystem
887 is that they seem to call into relief what some of the
888 existing regulatory framework might not. Digital media has
889 no created, at least on the macro level, a powerful
890 competitor to the media ecosystem that existed in isolation
891 in the prior century. The markets are keenly aware of it.
892 It plays a significant role in the way they fund growth and
893 choices for--that consumers have.

894 That said, there have been some movements more recently
895 on the part of the FCC to re-regulate some elements of media

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896 ownership, and ownership concentration issues in the TV
897 landscape in particular. The merits of these rule changes
898 specifically aren't what we would focus on in this venue, but
899 rather, we put the focus on the isolated nature of the rule
900 changes, without consideration to adjacent issues. For
901 instance, the UHF discount itself is probably something
902 increasingly obsolete in an evolved ecosystem where most
903 people under the age of 40 couldn't tell you the difference
904 between a UHF or a VHF station; there is no separate dial on
905 the cable box, but rather the choice to address such changes
906 on a piecemeal basis adds limited visibility to the financial
907 marketplace. The financial markets would probably have found
908 it more constructive to view the UHF discount rule considered
909 in a broader framework related to overall ownership cap
910 regulation. The financial markets sometimes struggle with
911 how to interpret broader ramifications.

912 That concludes my prepared remarks. I would like to
913 thank Chairman Walden, Ranking Member Eshoo, and the
914 subcommittee members for giving me the opportunity to speak
915 today.

916 [The prepared statement of Mr. Bank follows:]

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917 ***** INSERT 5 *****

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|

918 Mr. {Walden.} Thank you, Mr. Bank. We appreciate your
919 testimony. Thanks for coming down.

920 We will now turn to Jane Mago, who is the Executive Vice
921 President and General Counsel, Legal and Regulatory Affairs,
922 The National Association of Broadcasters, for our final
923 testimony from our witnesses today. Ms. Mago, thanks for
924 being back before the subcommittee. We look forward to your
925 comments.

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|

926 ^STATEMENT OF JANE MAGO

927 } Ms. {Mago.} Thank you. Thank you, Chairman Walden,
928 Ranking Member Eshoo, members of the subcommittee. I
929 appreciate the invitation to speak to you this morning.

930 Let me put my spin on 1975, that year that we have been
931 talking about all morning here. In 1975, I was starting law
932 school, watching a black-and-white television with no remote
933 control, and like everyone else, I had only three broadcast
934 networks to choose from. Cable wasn't available to me, and
935 satellite television was only delivered to huge earth
936 stations that were owned by cable companies. That was the
937 world when some of these broadcast ownership regulations were
938 created.

939 Since then, we have cable and satellite and
940 telecommunications companies that are all offering video
941 services. The Internet and the massive proliferation of news
942 outlets that you have heard about this morning have
943 absolutely revolutionized the way we consume media, yet time
944 has seemingly stood still at the FCC.

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945 The current broadcast ownership rules are simply out of
946 touch with the reality of today's media marketplace. They
947 distort competition. Cable, satellite and Internet-based
948 media outlets who operate without these cumbersome
949 regulations continue to proliferate and take both audience
950 share and advertising revenues.

951 The local television rule, for example, which generally
952 prohibits the ownership of 2 television stations in the same
953 market, assumes the television broadcasters operate in a
954 bubble, only competing against other television broadcasters.
955 That is almost laughable in today's marketplace. One need
956 only look at the growing cable practice of selling local
957 advertising across hundreds of cable programs to understand
958 that there is a direct and real competition between broadcast
959 and cable.

960 The FCC has recently decided to effectively prohibit 2
961 broadcast stations from engaging in the joint sale of
962 advertising, but the large cable operators, along with
963 satellite companies and AT&T and Verizon, have been unimpeded
964 as they join forces to create a single source that jointly
965 sells to local television advertising. It is increasingly

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966 difficult for broadcasters to compete in a marketplace that
967 is so skewed by disparate regulation. The 1975 newspaper
968 cross-ownership rule that we have heard about this morning
969 also relies on assumptions of a media landscape from a bygone
970 era. The FCC itself has said that the prohibition against
971 newspaper/broadcast cross-ownership is not necessary to
972 advance its goals of localism and competition, and it has
973 recognized that the rule is overly broad as related to the
974 alleged goal of promoting viewpoint diversity, particularly
975 with regard to radio; yet, this outdated rule is still on the
976 books.

977 To maintain the ability to provide quality local
978 service, and compete with newer technologies, broadcasters
979 need a more level playing field with our competitors.

980 That leads to my second point. Broadcast ownership
981 rules must keep pace with market changes. Congress wisely
982 required the FCC to take a fresh look at the ownership rules
983 on a regular basis, in light of competition, and repeal or
984 modify those that no longer serve the public interest, but
985 the FCC has failed to follow your direction. The last review
986 was done in 2007, and rather than complete the most recent

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987 quadrennial review, as required by statute, the Commission
988 rolled its 2010 review into 2014, and then announced that it
989 would not likely complete that review until at least mid-
990 2016.

991 NAB is challenging this most recent FCC decision in
992 court, not just because the FCC failed to live up to its
993 statutory obligation, but also because the Commission is
994 imposing new restrictions on joint sales agreements amongst
995 television stations, despite the fact that these agreements
996 have produced tangible public interest benefits. NAB has
997 shown that these agreements produce more news, more foreign
998 language television, and other community-focused programming.
999 Amazingly, the new rules will force broadcasters to unwind
1000 agreements that the Commission had previously approved.

1001 Finally, consideration of the broadcast ownership rules
1002 must be based on real evidence, not speculation. To address
1003 this, NAB asks Congress to undertake an examination of how
1004 the FCC's administration of the broadcast ownership rules has
1005 stifled investment and opportunity in broadcasting. In this
1006 time of intense consolidation in other parts of the
1007 communications industry, these ownership rules are

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1008 increasingly outdated and have significant harmful
1009 consequences on local media. Regulatory practices that
1010 starve media of capital investment are a proven failure.
1011 They serve no one. Not current broadcasters, not interested
1012 new entrants, and most importantly, not the American people.
1013 In sum, NAB is asking for you to ensure timely and fair
1014 revision of the broadcast ownership rules. Maintaining the
1015 status quo, creating new restrictions, or even just kicking
1016 the can down the road is a disservice to the American people.
1017 Thank you and I am happy to answer any questions.
1018 [The prepared statement of Ms. Mago follows:]

1019 ***** INSERT 6 *****

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|

1020 Mr. {Walden.} Ms. Mago, thank you for your testimony.

1021 We appreciate it. And we thank all of you for sharing your
1022 thoughts with us today.

1023 We will go now into the Q and A portion of our hearing.

1024 So, Mr. Lake, in the Sirius-XM merger in 2008, the
1025 Justice Department acknowledged that satellite radio services
1026 do not just compete with each other, but with a broad array
1027 of possible consumer substitutes, including AM and FM radio,
1028 CD's, iPods and other MP3 players. And as you know, many new
1029 cars now have docking stations or Bluetooth capability to
1030 connect all that up with other audio services, including
1031 Internet radio Web casting over Wi-Fi, cell phones and other
1032 handheld wireless devices, and the new digital HD radio
1033 receivers which allow old-fashioned broadcasters to send up
1034 to three digital channels of programming over AM and FM
1035 bands, bundled together with the XM analog channel.
1036 Terrestrial broadcasters now contend with Spotify and Pandora
1037 and other services, so it is a much-changed audio market in
1038 terms of competition for ears.

1039 What is the delay? How do you justify not changing the

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1040 radio rules on ownership?

1041 Mr. {Lake.} We have looked very carefully at that in
1042 our 2010 review--

1043 Mr. {Walden.} Yeah.

1044 Mr. {Lake.} --have compiled a great record, and we are
1045 looking at those trends in the use of radio and other audio
1046 sources. They haven't indicated to us yet that we should
1047 change the local radio rules.

1048 Mr. {Walden.} Really?

1049 Mr. {Lake.} Again, we have just called for further
1050 input. We are very interested in knowing how--

1051 Mr. {Walden.} Have you changed anything relative--

1052 Mr. {Lake.} --the market will change in 2014.

1053 Mr. {Walden.} --to the radio rules since 1996?

1054 Mr. {Lake.} No, those rules have not been changed--

1055 Mr. {Walden.} Right.

1056 Mr. {Lake.} --since Congress put the current--

1057 Mr. {Walden.} Do you think the market has changed since
1058 1996 in terms of audio offerings and competition in the audio
1059 marketplace?

1060 Mr. {Lake.} The entire marketplace has changed, both

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1061 audio and--

1062 Mr. {Walden.} But the rules have not.

1063 Mr. {Lake.} Our task is to try to determine in this--at
1064 the current state of evolution what are the appropriate
1065 rules. And, again, we are very open to all input on that
1066 subject.

1067 Mr. {Walden.} Because I sense from your testimony you
1068 are not. I mean it kind of indicates you are going to go
1069 with the existing rules. Right?

1070 Mr. {Lake.} What we have done, I think, is to analyze
1071 the record as it now stands. We have a very extensive
1072 record, but we are very open to further input, and--

1073 Mr. {Walden.} Yeah.

1074 Mr. {Lake.} --I think if you read--

1075 Mr. {Walden.} So--

1076 Mr. {Lake.} --further notice carefully, it says that it
1077 says, which is that we are open to all further input. Those--
1078 -all of the issues are open.

1079 Mr. {Walden.} Okay. I am glad to hear that because, as
1080 you know, I was a radio broadcaster, we had to do the Olympic
1081 ring theory to justify having two AM's and three FM's in a

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1082 market that was, I don't know, several hundred square miles
1083 probably. And ours had competition with XM and Sirius. That
1084 was really before Pandora took off. I have got three--five
1085 audio platforms out there, and you all allow, and justice
1086 allowed XM and Sirius to merge, and said here is the
1087 marketplace as we see it. And then for broadcasters, you
1088 say, no, no, no, you can't have another platform in a market.
1089 We, frankly, rescued some stations that were in pretty bad
1090 shape, and restored local programming, split them apart. I
1091 just think you guys don't get it, that the marketplace has
1092 changed dramatically. And the statute requires you to get
1093 it. And here we have been a quadrennial review, and for a
1094 whole set of reasons, not yours, you don't have a vote at the
1095 Commission so I am picking on you, but not really, okay, but
1096 the message will get through because I imagine the
1097 Commissioners listen in occasionally. And I just wonder,
1098 television has changed, newspapers are going broke,
1099 Craigslist has done amazing things to classified advertising.
1100 Mr. Lunzer, you probably don't have a lot of people working
1101 in the classified ad bureau anymore, do you? And a lot of it
1102 was propped up by legal notice requirements through the

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1103 housing crash with foreclosures. That made up a lot of
1104 revenue, but that is going away, and I worry about the future
1105 of newspapers. I don't even like what they write about me
1106 sometimes and I still worry about them. Some of the time.
1107 Yeah, well, but the point is it is a vibrant marketplace, and
1108 I think our rules are outdated. And so, again, I worry about
1109 what you are doing with the JSA's, because I sense from your
1110 testimony, Mr. Lake, it is almost like you think that the
1111 sales department controls the news department.

1112 Mr. {Lake.} The conclusion we reached with respect to
1113 both radio and TV JSA's is that if one station controls the
1114 principle source of revenue for another, it is likely to have
1115 an influence on the ability to influence the conduct of the
1116 second station. And that is the test under our attribution
1117 rules.

1118 Mr. {Walden.} Okay. I would like to go to Ms. Mago.
1119 You said that because of some consolidation, the market is
1120 actually better served. What is your evidence for that?

1121 Ms. {Mago.} We showed a number of different markets
1122 where there was the specific advantages that came from the
1123 shared services arrangements. For example, in Wichita,

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1124 Kansas, they were--stations were able to do a JSA combination
1125 to provide the first Spanish language news in the entire
1126 State of Kansas. Similarly, in a situation in Eureka,
1127 California, you had two stations that didn't have any local
1128 news at all. By combining their resources to be able to get
1129 the efficiencies that came through those shared operations,
1130 both were able to start news operations in the Eureka market
1131 where there had only been one before that, and that is
1132 something that was a great advantage to the communities.

1133 Mr. {Walden.} All right, my time has expired. Thank
1134 you all for your testimony and the work you do in this area.

1135 Ms. Eshoo for 5 minutes.

1136 Ms. {Eshoo.} Thank you, Mr. Chairman, and thank you to
1137 each one of our guests today.

1138 Varying views and I have listened hard to what each one
1139 of you said, and I can't help but think that some of my
1140 thinking relative to what--some of the testimony is the
1141 opposite of what you said. And so I want to go the other way
1142 and test out some of the things that have been put out about
1143 how great media consolidation is and how well it serves our
1144 country.

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1145 I started out today by stating I think one of the most
1146 important principles relative to a democracy. Now, our
1147 democracy is old, India's I think is large and vibrant as
1148 well, but would anyone suggest that because that is an old
1149 idea, it is a bad one, that we should take up something that
1150 would change the whole idea of democracy? I don't think so.
1151 So I--while I celebrate the new platforms, the new services,
1152 so many of them, I will--I would be willing to wager the
1153 majority of them, being established in my congressional
1154 district, that we need to examine this in terms of what
1155 consolidation is actually going to do for the American
1156 people.

1157 I understand business models, capital markets, how they
1158 want to invest, what is going to serve them well. That--in
1159 many ways, many of those business approaches were blow apart
1160 in 2008 when we had a near total economic collapse in our
1161 country. That was one hell of a business model that was
1162 brought to the American people. So I think that, you know,
1163 it has been said that, you know, nothing has changed since
1164 1975, we are out of touch with ourselves and markets, and
1165 what we need to do, I would suggest that some of the business

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1166 models are out of touch with what the American people should
1167 be receiving. I don't know who is going to stand next to the
1168 model that Ms. Gonzalez described. I mean that is really, as
1169 the chairman said, powerful testimony.

1170 So if we consolidate more, are minorities in our country
1171 going to progress? No one addressed that. I never heard
1172 anyone address that. So if you have some points to make on
1173 that, I think it would be terrific, but honestly, I just
1174 don't--I think that people care. They care enormously if, in
1175 their market, there is one outfit that owns the newspaper,
1176 runs the TV stations and the radio stations, what kind of
1177 line of information, what is the value and the texture and
1178 the fabric and the content of just that one line being fed to
1179 people? I think that there are some countries in the world
1180 where we shun and make fun of that model because this one
1181 line to people. I want to hear diversity of thinking, and I
1182 would suggest that there is a lot of junk out there too, even
1183 though we have many more things at our fingertips, and for,
1184 you know, for the broadcasters, God bless you, you do a lot
1185 of things for--in terms of localism, we have had testimony on
1186 that, but you also have the airwaves that belong to the

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1187 American people, and you don't pay for that. So that is a
1188 pretty darn good deal. So why would I want to consolidate
1189 something even more? For what? What is the reason? I mean
1190 what is the prime reason? Anyone have an answer to that?
1191 What is the prime reason? Is it for a better business model
1192 for someone, or is this in the name of democracy, localism,
1193 diversity, competition?

1194 Ms. {Mago.} If I can--

1195 Ms. {Eshoo.} I mean I think that is the central
1196 question here.

1197 Ms. {Mago.} If I can, Ranking Member Eshoo. I think I
1198 would like to put the right perspective on this of what we
1199 want, and what I--what broadcasters are calling for is a
1200 healthy, vibrant broadcast industry, and I think it can
1201 achieve all of those goals that you were just talking about.

1202 Ms. {Eshoo.} Yeah, well, I don't know how though. I--
1203 that is--

1204 Ms. {Mago.} By being able to compete in the current
1205 ecosystem. You cannot simply look at the broadcast industry
1206 as if it is only in its own little bubble. You have to
1207 recognize all of the changes that we talked about here this

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1208 morning, and recognize that for broadcasters to create--be
1209 able to provide the kind of local information, the kind of
1210 truly competitive services that we have to have the kind of--
1211 Ms. {Eshoo.} Well, I--
1212 Ms. {Mago.} --autonomy to do that.
1213 Ms. {Eshoo.} --appreciate you jumping in, and I am--I
1214 think it is very interesting today that there is not a camera
1215 here. We have print media that is here, but I don't know--
1216 Mr. {Walden.} The camera is right there.
1217 Ms. {Eshoo.} --are we Webcast or--
1218 Mr. {Walden.} Sure. Of course.
1219 Ms. {Eshoo.} We are?
1220 Ms. {Walden.} I--
1221 Ms. {Eshoo.} On CSPAN?
1222 Mr. {Walden.} Yeah.
1223 Ms. {Eshoo.} Is CSPAN carrying this?
1224 Mr. {Walden.} It is up to them to carry it or not. We
1225 don't--
1226 Ms. {Eshoo.} I see.
1227 Mr. {Walden.} --dictate it.
1228 Ms. {Eshoo.} Well, I am--

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1229 Mr. {Walden.} Yeah.

1230 Ms. {Eshoo.} I am proud that the print media is here,
1231 so--

1232 Mr. {Walden.} We have print over here. We have print.
1233 Raise your hand if you are with the news people.

1234 Ms. {Eshoo.} I didn't--I will submit my questions to
1235 you, but I really think, Mr. Chairman, that, when you look
1236 across America, we really have to understand what more
1237 consolidation is going to do, and I--and myself, I don't
1238 think it really feeds democracy simply to consolidate,
1239 because that is someone's business plan. I just don't buy
1240 that. I have seen a lot of peoples' lives wrecked and bad
1241 information being put out in the region as a result of it. I
1242 don't want more than that.

1243 So thank you very much, and I will submit my questions
1244 to the witnesses for their response. Thank you.

1245 Mr. {Walden.} Thank the gentlelady.

1246 And now we will go to Mr. Latta, the vice chair of the
1247 subcommittee, for questions.

1248 Mr. {Latta.} Thank you, Mr. Chairman. And, again,
1249 thanks for our panel for being with us today. Appreciate

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1250 your testimony.

1251 Ms. Mago, if I could start with you at this time. What
1252 would be the effect of the FCC's proposal to attribute
1253 stations a--under a JSA and calculating a broadcaster's media
1254 ownership cap?

1255 Ms. {Mago.} For many of the stations that have been
1256 operating under the JSA's that were, in fact, proved by the
1257 Commission, it is going to mean that they are going to have
1258 to unwind those operations within the 2 years, as Mr. Lake
1259 described, and that means that they are going to have to
1260 either go out of business, they are going to have to find
1261 other sources of revenues, because those efficiencies that
1262 they have been operated under have been what have allowed
1263 them to provide greater service to their communities. So
1264 there is going to be a reduction of the amount of the service
1265 that is available in the communities.

1266 Mr. {Latta.} Okay, and the next part of the question
1267 then, what effect would that have when you are talking--
1268 looking at a reduction for services in that community, or
1269 communities? What would you see that as?

1270 Ms. {Mago.} I seem that as harmful to the American

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1271 public, and that reduction could be that, for example, where
1272 you have the stations--the station that I referred to before
1273 in Wichita, Kansas, where the Spanish news operation is being
1274 facilitated by the fact that there is a joint sales
1275 arrangement--agreement that is in that market. That might
1276 well have to go away or find some other way of being financed
1277 that would not give it the kind of resources that they need.
1278 Other markets have similar stories that go with it, where the
1279 Tuvalu College in--that is also operating under a JSA, and
1280 they have presented evidence to the Commission that they
1281 would not be able to provide the services that they could to
1282 their community.

1283 Mr. {Latta.} All right, thank you.

1284 Mr. Lake, you note in your testimony, under further
1285 notice tentatively affirms that media ownership limits remain
1286 necessary in the current marketplace, despite the prevalence
1287 of new electronic media. So--and how is the FCC making that
1288 determination without first having conducted a thorough
1289 review of the marketplace to justify those limits?

1290 Mr. {Lake.} We looked at the record as it now exists,
1291 and while my friend, Jane, is right that the market has

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1292 evolved quite a bit since she began law school, it continues
1293 to evolve. I am sure it will be very different 5 years or 10
1294 years from now. And our task is to try to determine what
1295 rules are appropriate for the current state of evolution.
1296 And one of the things that we find in the current record is
1297 that while distribution of news--local news and information,
1298 in particular, has become much more diverse; people find it
1299 on the Internet and elsewhere, the sources of that news and
1300 information remain principally the traditional media;
1301 newspapers and broadcast television. We also note that while
1302 broadband is changing everything in the country, there
1303 remains about 20--30 percent of the population that doesn't
1304 have broadband at home.

1305 In 5 years or 10 years, if that figure is much closer to
1306 100 percent, and if the electronic media are generating more
1307 original news than they do today, that might have tremendous
1308 implications for our media ownership rules. What we are
1309 trying to do is to look at the state of the market today and
1310 decide what rules are appropriate to the market today. And
1311 as I say, we are basing our tentative conclusions on the 2010
1312 quadrennial record. We have invited comments on our further

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1313 notice, and will look very carefully at the updated
1314 information that people submit.

1315 Mr. {Latta.} Okay. Well, thank you.

1316 Mr. Bank, if no changes are made in the current
1317 regulatory system, and the ownership caps remain where they
1318 are today, what is your prediction for the world of
1319 traditional media in the next 5 years?

1320 Mr. {Bank.} Well, what I would say is that the
1321 perspective of the capital markets on a daily basis, on an
1322 hourly basis, is the intense increasing competition that is
1323 being ratcheted up by a competing ecosystem from the Online
1324 media world.

1325 I think that over that period of time, over a 5-year
1326 period of time, we would expect to see continued wallet-in-
1327 mind share loss by the traditional medial players to Online
1328 media. I don't think they are going out of business in the
1329 traditional media world, but I think it is going to be a
1330 less, you know, risks being a less healthy environment. And
1331 because of that, you know, the capital markets will have to
1332 evaluate how they are willing to fund growth in that area.

1333 Mr. {Latta.} Let me follow up with--your testimony is

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1334 very helpful in showing us the trends in today's media
1335 consumption. What does that mean to the investment community
1336 overall when you look at that?

1337 Mr. {Bank.} I am sorry, what--

1338 Mr. {Latta.} When you look at the trends that you are
1339 talking about, what does it mean to the investment community
1340 when you are looking at today's--

1341 Mr. {Bank.} Well, I--

1342 Mr. {Latta.} --today's world out there, and into the
1343 next few, you know, 4 to 5 years?

1344 Mr. {Bank.} I think, again, the focus of, you know, the
1345 focus of the capital markets is to invest for the greatest
1346 potential return, and that is often connected with, you know,
1347 the long-term growth perspective. And I think if you look at
1348 a lot of those exhibits, what you see is, you know, on some
1349 level, a decline of share potentially, going to--from
1350 traditional media to Online, and typically dollars will
1351 follow that share, whether it is advertising revenue,
1352 viewership, whatever it is you can measure, I think those are
1353 the kinds of things that, you know, capital tends to chase.

1354 Mr. {Latta.} Thank you very much.

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1355 And, Mr. Chairman, my time has expired and I yield back.

1356 Mr. {Walden.} Thank the gentleman and for his
1357 questions, and you for your answers.

1358 We will now go to Mr. Lujan from New Mexico. Thank you
1359 for--

1360 Mr. {Lujan.} Mr. Chairman--

1361 Mr. {Walden.} --your questions.

1362 Mr. {Lujan.} Mr. Chairman, thank you very much.

1363 Mr. Boyle, with your recommendation to eliminate the
1364 ban, are there any restrictions that you would replace the
1365 ban with?

1366 Mr. {Boyle.} No, we think that the ban should be fully
1367 eliminated for radio-newspaper combinations, but also TV-
1368 newspaper combinations. It makes no sense that a top-rated
1369 television station in a market that has resources and a deep
1370 commitment to journalism can't invest in a local newspaper in
1371 that market if that newspaper becomes available.

1372 Investigative, original reporting that is professionally
1373 edited is very expensive to do. And we don't think there is
1374 going to be a massive wave of mergers. There may be some
1375 markets that a newspaper comes on the scene, and we think,

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1376 for too long, investors have been on the sidelines.

1377 Mr. {Lujan.} Mr. Boyle, while I have concerns with the
1378 response, with this reason. If there are no restrictions, I
1379 don't see anything that keeps one entity from controlling
1380 everything, and we only get use from one source. And that is
1381 where my concern is, and that is why I was hoping that I
1382 would hear some restrictions, but maybe we could have a
1383 conversation about that later. I only have a few minutes, I
1384 am going to move on.

1385 Ms. Mago, I appreciate very much the remarks bringing
1386 attention to an outdated rule, an era of--a bygone era, a
1387 marketplace that has changed dramatically with rules that
1388 were put in place in the '70s. Should we get rid of DMA's?

1389 Ms. {Mago.} I am sorry?

1390 Mr. {Lujan.} Should we get rid of DMA's?

1391 Ms. {Mago.} DMA's are actually fairly current. They
1392 reflect the market patterns in--

1393 Mr. {Lujan.} DMA's were put in place in the '50s and--
1394 '40s and '50s.

1395 Ms. {Mago.} The designated market areas are something
1396 that has been created through--for the Nielsen services, and,

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1397 in fact, they get--

1398 Mr. {Lujan.} So--

1399 Ms. {Mago.} --they are adapted as you go along--

1400 Mr. {Lujan.} So--

1401 Ms. {Mago.} --that indicate--

1402 Mr. {Lujan.} If I may. So we should get rid of an

1403 antiquated rule that was written in the '70s, but not

1404 antiquated rules that were written before then?

1405 Ms. {Mago.} No, sir. I am not--I am contesting the

1406 notion that it is simply the--that the DMA's have not

1407 changed. In fact, they do change, and they are reflective of

1408 the market patterns and the commerce that is within any given

1409 area.

1410 Mr. {Lujan.} So DMA's create a bubble.

1411 Ms. {Mago.} I am sorry?

1412 Mr. {Lujan.} DMA's create a bubble for broadcasters to

1413 upgrade them, correct?

1414 Ms. {Mago.} No, they reflect the markets where the

1415 broadcasters are, in fact, operating. They are the commerce

1416 area around where the broadcasters and the others in that

1417 market are. They reflect the businesses that advertise on

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1418 whatever broadcasting service is there, and they are--they,
1419 in fact, are updated.

1420 Mr. {Lujan.} Very good. That is another conversation I
1421 hope that we can have--

1422 Ms. {Mago.} I would be happy to talk with you more
1423 about that.

1424 Mr. {Lujan.} --in the future as well. Yeah, I--
1425 although we have learned about that where there are local
1426 communities all around the United States and orphan counties
1427 that don't get local broadcast news.

1428 Ms. {Mago.} It--

1429 Mr. {Lujan.} So, clearly, something is broken when
1430 local, rural Americans are left out in the dark and don't
1431 know what is happening in their backyard, and when local
1432 newspapers are providing coverage up there because it is too
1433 far to commute to take a local newspaper. I come from a
1434 state where my legislative district takes 8 1/2 hours to
1435 drive across. Out here, I drive through six or seven states.

1436 Ms. {Mago.} Um-hum.

1437 Mr. {Lujan.} But people seem to forget about rural
1438 America, and that is where my concern is in that particular

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1439 area, but we will talk--

1440 Ms. {Mago.} I would be happy to talk with you more
1441 about that, and really address your concerns.

1442 Mr. {Lujan.} I appreciate that.

1443 Ms. Gonzalez, you noted in your testimony that since
1444 2006, there has been nearly an 80 percent decrease in full-
1445 powered TV station ownership by African-Americans. Some have
1446 used that number to argue that existing media cross-ownership
1447 rules have done little to preserve diversity in broadcast
1448 ownership. I find it interesting, however, that over roughly
1449 the same period, the use of GSA's by broadcasters has grown
1450 substantially. For example, data indicates that while GSA's
1451 were only found in 4 percent of the ownership transfer
1452 applications pending before the FCC between 2001 and 2004, by
1453 earlier this year had ballooned to 25 percent.

1454 Based on these figures, do you think there is a
1455 correlation between the tremendous uptake in the use of GSA's
1456 that, in many instances, help broadcasters go around the
1457 media cross-ownership restrictions, and the decline in
1458 minority ownership of broadcast TV stations?

1459 Ms. {Gonzalez.} Yes. There seems to be a correlation.

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1460 I will note, in Ms. Mago's testimony, she mentioned one
1461 example in Kansas where there is a JSA that is providing
1462 Spanish language news that didn't otherwise exist in that
1463 DMA. I think that example is a prime candidate for the
1464 waiver process that the FCC articulated in its JSA order
1465 several months ago, and--but for the most part, these JSA's
1466 seem, and the consolidation generally, seem to have been
1467 diminishing owners of color, making it more difficult for us
1468 to enter the market, and all around just not a good situation
1469 for diversity. In fact, there are also examples of JSA's
1470 where there are--there is an owner of color involved, but
1471 that person doesn't have control of the programming, and a
1472 path towards sole ownership of the station.

1473 We want genuine involvement and ownership by people of
1474 color. That doesn't seem to be happening in this current
1475 marketplace.

1476 Mr. {Lujan.} I appreciate that.

1477 Now, Mr. Chairman, I know that I have not heard any of
1478 my colleagues say anything to the contrary that we don't want
1479 to see more ownership with minorities as well. And I think
1480 this an important question that I hope that we can flush out

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1481 and just get more information on as we have the conversation
1482 pertaining to JSA's as well, and I really appreciate the
1483 panel that you have put together and the responses today. I
1484 still have many questions as well that I will submit into the
1485 record, but again, thank you for bringing this panel
1486 together, Mr. Chairman, and, Ranking Member Eshoo. Thank
1487 you.

1488 Mr. {Walden.} Yeah, thank you, and thanks for your
1489 participation.

1490 We will now go to Mr. Kinzinger from Illinois.

1491 Mr. {Kinzinger.} Well, thank you, Mr. Chairman, and
1492 thank you all for being here on these very important issues.

1493 I am going to start with you, Mr. Lake. I have just a
1494 couple of kind of quick questions.

1495 The last time that the media ownership rules were
1496 substantively updated was 1999. That was quite literally the
1497 last century, and in the ensuing--ensuing 15 years, the
1498 media landscape and specifically the options people have to
1499 obtain and consume information have expanded exponentially.
1500 It is largely thanks to the Internet and the availability of
1501 online mediums.

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1502 It has become apparent that the FCC is either unable or
1503 unwilling to complete the congressionally-mandated media
1504 ownership review. Is Congress going to have to rewrite and
1505 deregulate the current media ownership rules to finally match
1506 the intent of the 1996 Telecommunications Act, and to finally
1507 provide regulations that match the realities of the current
1508 media landscape?

1509 Mr. {Lake.} I can say the Commission takes very
1510 seriously its responsibility to review the ownership rules,
1511 and the current chairman has committed to take a very serious
1512 look and to have recommendations for the commissioners by
1513 mid-2016.

1514 Mr. {Kinzinger.} Good. And I hope you can take back
1515 the concerns of the committee on that, very loudly. And, Mr.
1516 Lake, the Commission adopted an expedited process to review
1517 requests for waivers of the recently-adopted JSA rules. As
1518 you noted, the Bureau is tasked with acting on any waiver
1519 request within 90 days of the close of the record, provided
1520 there are no circumstances requiring additional time for
1521 review.

1522 Could you describe what those circumstances are, and how

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1523 will applicants know that such circumstances exist?

1524 Mr. {Lake.} We haven't confronted circumstances such as
1525 that, and I don't know what they might be. There might be
1526 need for further information that hasn't been available, but
1527 we don't anticipate that that circumstance will happen very
1528 often. We are very much aware of the commitment we have to
1529 act, if at all possible, within 90 days after the record
1530 closes and that is what we will try to do.

1531 Mr. {Kinzinger.} And so if there is a circumstance,
1532 will you guys be communicating this well to the applicants?

1533 Mr. {Lake.} Absolutely. If we identify such a
1534 circumstance, we will make clear what that is.

1535 Mr. {Kinzinger.} And will they know immediately?

1536 Mr. {Lake.} We might not know, except during that 90-
1537 day period, but again, I think this is very hypothetical
1538 because we don't anticipate that that will occur very
1539 frequently.

1540 Mr. {Kinzinger.} And how will this new speed of
1541 disposal metric be incorporated into the management of the
1542 Bureau? What happens if it is not met, and will you commit
1543 to seeing this deadline met?

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1544 Mr. {Lake.} Excuse me, will we commit to?

1545 Mr. {Kinzinger.} To seeing this deadline--to seeing any
1546 deadlines met?

1547 Mr. {Lake.} Yes, we are committed to meeting that
1548 deadline if at all possible. And, again, I don't anticipate
1549 there will be many circumstances in which it is not.

1550 Mr. {Kinzinger.} Okay. Ms. Mago, the FCC has an open
1551 proceeding to do away with the UHF discount in terms of how
1552 UHF stations are countered against the national broadcast
1553 ownership cap. This discount was put into law at a time when
1554 UHF signals were seen as inferior to VHF signals, which,
1555 after the digital television transition, is no longer the
1556 case.

1557 Does NAB have a position on that proceeding?

1558 Ms. {Mago.} Yes. NAB's position is that you really
1559 shouldn't be looking at just the UHF discount aspect of this
1560 without looking at the larger rule regarding the national
1561 ownership cap. It makes no sense in a world where you have
1562 grown up with the various discounts, with the ownership
1563 sizes, to look at that without considering the larger rule.
1564 It is not a standalone rule.

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1565 Mr. {Kinzinger.} Okay.

1566 Mr. Chairman, I still have a minute and 30, but I will
1567 yield back.

1568 Mr. {Walden.} Gentleman yields back.

1569 Chair now recognizes the gentleman from Illinois, Mr.
1570 Rush. Turn on your mike please.

1571 Mr. {Rush.} Mr. Chairman--

1572 Mr. {Walden.} We are glad to have you back, Mr. Rush.

1573 Mr. {Rush.} Well, and I am very glad to be back, Mr.
1574 Chairman, and thank you for all your concern, both for me and
1575 my wife. I really appreciate it.

1576 I want to welcome all the witnesses, and I want to let
1577 you know I appreciate your testimony, and I appreciate you
1578 spending this time with us to discuss the FCC media ownership
1579 rule. And this is an issue, an area of concern that I have
1580 had over the last 21 years and I have been in Congress, and
1581 certainly in terms of my years on the--on this committee and
1582 on this subcommittee, it has been one of my primary concerns.
1583 And I am really--I have taken the position over these past
1584 couple of decades that one of the reasons why I sit on this
1585 committee is to increase the number of minority ownership of

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1586 media across the country. And I must say, I am dismally
1587 disappointed. I have disappointed over a number of years
1588 because I don't see the vigorous and the--I don't see the
1589 vigorous commitment from the FCC. I am disappointed in the
1590 excuse-making and the continual excuse-making, and it is
1591 worse now than it has ever been in the last 20 years that I
1592 have been in this Congress--21 years that I have been in
1593 Congress. This is the worst time for media ownership by
1594 minorities. And as a matter of fact, in the last--if I am
1595 not mistaken, in the last 3 or 4 years, the percentage of
1596 media ownership by minorities has dropped almost 60 percent
1597 in the last 4 or 5 years. That is not a good report. That
1598 is a horrible report. And as we sit, there are only four
1599 African-Americans who own television stations in the Nation,
1600 in this great nation of ours. And we have an agency that is
1601 responsible for ensuring that the airwaves, that the American
1602 people, that there is some equality and equal access not only
1603 to content and viewership, but also to--from a point of view
1604 of ownership.

1605 And so my question to you, Mr. Lake, is does the FCC
1606 know how many minorities and women are employed by

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1607 minorities, and women broadcasters, compared to how many are
1608 hired by non-minority and non-women broadcasters? Do you all
1609 keep that kind of information?

1610 Mr. {Lake.} We do not have that employment breakdown.
1611 We have EEO rules that require all stations, regardless of
1612 their ownership, to do outreach in their employment.

1613 Mr. {Rush.} Well, how do you justify in the FCC, how do
1614 you justify a decrease of 60 percent of minority owners?

1615 Mr. {Lake.} The Commission does have a longstanding
1616 goal, as you know, to--of promoting minority and women
1617 ownership of broadcast stations--

1618 Mr. {Rush.} No, I don't--

1619 Mr. {Lake.} We feel your dissatisfaction.

1620 Mr. {Rush.} I don't know it because I hear about it,
1621 but I have never witnessed it. I have never seen that
1622 posture and that attitude. I have never seen that program
1623 and that commitment by any--by, I would say, most of the
1624 commissioners over there. I see--I heard of good intentions,
1625 I hear a lot of platitudes, I hear a lot of tear-jerking, but
1626 it is all saying, and it all saying. I don't see the work
1627 being done. I don't see them rolling up their sleeves and

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1628 solving this problem that should be solved. It should have
1629 been solved a long time ago, but I still just hear a lot of--
1630 we know it is a--from the FCC, I hear a lot of yes, you are
1631 right, yes, we are--it is longstanding, but how long is
1632 longstanding?

1633 Mr. {Lake.} We share your dissatisfaction with the
1634 results so far, but we are taking concrete action. One of
1635 the results of our recent action on JSA's, we think, will be
1636 to open more opportunities for truly independent owners of TV
1637 stations, including minority and women owners. As you
1638 probably know, there was a list of about 30 civil rights and
1639 other public interest groups that supported our taking that
1640 action, and we hope that they are right and that we are
1641 right; that it will open opportunities for minority owners.

1642 We also recently relaxed our approach to foreign
1643 investment in broadcast stations. Again, civil rights groups
1644 urged us to do that as a way of trying to solve some of the
1645 access to capital problems that minority owners face. So we
1646 are taking concrete action. We are constantly looking for
1647 additional things we can do. We are always subject to the
1648 very strict Supreme Court rules that have been put down as to

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1649 taking any action that is actually race or gender-based, but
1650 again, one of the things that we did in our further notice
1651 that was recently announced was to review that constitutional
1652 law very carefully, and the state of the evidence that we
1653 have, and to call for further evidence that might someday
1654 allow us to actually be able to justify to the Supreme Court
1655 taking race or gender-based action.

1656 Mr. {Rush.} Mr. Chairman, I have one more question, if
1657 you don't mind.

1658 Mr. {Walden.} Go ahead, Mr. Rush.

1659 Mr. {Rush.} If I could. Have you ever heard of the
1660 critical information need study?

1661 Mr. {Lake.} Yes, I certainly have.

1662 Mr. {Rush.} Why was it terminated?

1663 Mr. {Lake.} The study was intended to gather data
1664 anonymously to help determine what the information needs of
1665 communities are and whether they are being met. When the
1666 current chairman took a fresh look at that study, he decided
1667 that some of the questions appeared inappropriate and he
1668 terminated the study.

1669 Mr. {Rush.} Okay. Again, here we go again, all right.

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1670 So the study wasn't done according to maybe the standards of
1671 the new chairman, but instead of revising it, you end it.
1672 All right? Instead of adapting or coming up with some new
1673 questions that might have fit the standards of the chairman,
1674 you ended it. And it was a study that should take place, and
1675 FCC was headed in the right direction, but again, you have
1676 ended that study which would have given us information, all
1677 right, that would be able to--Mr. Chairman, I thank you for
1678 your indulgence. I am so upset and angry about this, I think
1679 I should end this right now, my line of questioning. Thank
1680 you so very much, and I thank the witnesses, but seeing as I
1681 want to go on the record that I am absolutely, totally
1682 disappointed in the FCC and their position on minority
1683 ownership of marketplace--

1684 Mr. {Lake.} And I would be happy to respond on that if
1685 you want to take the time.

1686 Mr. {Walden.} We need to actually move on, but I--Mr.
1687 Rush, thank you. I know you are passionate about this, and
1688 we all know that, and I appreciate your participation in the
1689 hearing.

1690 We will turn now to, I believe, the gentleman from

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1691 Illinois, Mr. Shimkus, for 5 minutes.

1692 Mr. {Shimkus.} Thank you, Mr. Chairman. And I do have
1693 great respect for my friend from the Chicago area, and it was
1694 important for him to get his time that he needed to finish
1695 up.

1696 I too am disappointed with the FCC, but not for the
1697 totally same--and I said in the opening statement, when
1698 federal agencies, regardless of who they are, don't comply
1699 with the law and delay, it makes it difficult for those of us
1700 and conservatives that are in the country to say there is a
1701 legitimate reason to have that agency. If our government and
1702 our agencies would comply with law and be expeditious in the
1703 processing, it would make it easier, and I would just hope
1704 you would take that back to the FCC and the commissioners.
1705 That is the importance of getting these quadrennial reviews.
1706 I mean it has to be embarrassing to come up here and say,
1707 really, we haven't done 2010 and 2014, and we are going to
1708 get around to it. So I am just beating a dead horse, but
1709 the--again, you don't make it easier for us.

1710 Let me go to Mr. Bank please. Unless you addressed this
1711 in a question and answer while I was gone, because I am up at

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1712 the Health Subcommittee meeting too, I am not sure you
1713 addressed the impact of the FCC's changes to the attribution
1714 of joint sales agreement in your statement. You may have
1715 gotten it in a question, and if you did, I apologize. Can
1716 you tell us about the investment community's reaction to the
1717 FCC's recent announcement that they will force broadcasters
1718 to unwind joint sales agreements if the broadcaster finds
1719 itself over the local ownership cap?

1720 Mr. {Bank.} Well, the sun setting of the JSA provisions
1721 for some of those stations without a grandfathering provision
1722 has been certainly concerning to the capital markets. You
1723 know, I think the capital markets were initially just kind of
1724 confused, but the reality is those are events that took value
1725 away from those companies. It is--and I think it was
1726 reflected in the reaction of the capital markets.

1727 Mr. {Shimkus.} Yeah, and people know who follow this
1728 committee and follow my service here, you know, I represent
1729 1/3 of the State of Illinois, I only have 6 media markets,
1730 most of them are small or medium-to-small markets. Without
1731 this ability, they are not broadcasting, or they are
1732 broadcasting inadequately. So the argument--so I am very

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1733 concerned, as other communities are concerned about, as Bobby
1734 is concerned about minorities, as the Hispanic community is
1735 concerned, I am concerned about everyday news to rural
1736 America, and that is the opportunity that we are losing by
1737 what the FCC is proposing. And I think Mr. Bank identified
1738 one of them.

1739 Ms. Mago, it is expensive, and this kind of ties into
1740 the whole debate, it is expensive to run a TV station or a
1741 newspaper in this day and age. I think it would be difficult
1742 to make it work, that is why I am here and not out there
1743 trying. Mr. Walden tried in a different era, pretty much,
1744 but there are successful companies out there--

1745 Ms. {Mago.} Um-hum.

1746 Mr. {Shimkus.} --with proven track records, and have
1747 continued to do so, and do it well. Doesn't it make sense to
1748 a lot of good companies with good resources to put their
1749 expertise to work in filling--in failing stations or
1750 newspapers?

1751 Ms. {Mago.} Absolutely. We believe that--I--good
1752 stations can invest in their communities, create greater
1753 localism, also create more opportunities. They can invest in

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1754 quality journalism, provide better service to the
1755 communities, and that is all good for the American people.

1756 Mr. {Shimkus.} And just the stories that I know from
1757 local, small to medium-sized markets, you have helicopter
1758 access where you didn't have it before, you have real news
1759 broadcasting versus satellite in news, you might have a new
1760 state-of-the-art weather station that may be more predictive
1761 than the old one on the old station. So that point needs to
1762 be made as we do, as members of Congress, bring our differing
1763 voices here to try to collectively raise those concerns.

1764 Rural America cannot be left out in the ability to receive
1765 real-time, accurate information, and these agreements help
1766 them maintain that in a very competitive world. So I
1767 appreciate you all being here, and again, I apologize for not
1768 spending more time with you, Mr. Chairman. A great hearing.
1769 And I yield back my time.

1770 Mr. {Walden.} Thank you, Mr. Shimkus. We appreciate
1771 your participation, as always.

1772 We will now turn to Mr. Long as our final Member with
1773 questions. Mr. Long.

1774 Mr. {Long.} Thank you, Mr. Chairman.

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1775 Ms. Mago, you may not be able to answer this question,
1776 as executive vice president and general counsel, legal and
1777 regulatory affairs, the National Association of Broadcasters,
1778 but I hope you can. Are you familiar with a program that the
1779 NAB has to encourage minority ownership of stations?

1780 Ms. {Mago.} Absolutely. In fact, I am--my other
1781 capacity at the NAB is that I am the general counsel advisor
1782 to the National Association of Broadcast Education
1783 Foundation, which runs the program that you are talking
1784 about.

1785 Mr. {Long.} Okay, good. And this was not a setup
1786 because I had not talked to you before, and I didn't know
1787 that you were that familiar with it, but I am familiar with
1788 that and I am given to understand that it is a very intense
1789 program, very successful. I have talked to people that have
1790 gone through and become owners of stations. So for my friend
1791 from Illinois, I hope you realize that the NAB is reaching
1792 out and doing a lot in that direction.

1793 My next question is for Mr. Lake. What advantage of a--
1794 if you have a successful broadcaster, what advantages have
1795 that successful broadcaster to fold into a JSA with another

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1796 company, what would be his advantage? If I have a
1797 successful, rockem-sockem station, on the air, making a lot
1798 of money, what is my advantage to fold that in to--with a JSA
1799 with another station?

1800 Mr. {Lake.} What a number of stations seem to have
1801 concluded is that they would very much like to have a duopoly
1802 in a market in which our rules don't allow a duopoly, and
1803 that going into a JSA, which is often combined with a number
1804 of other entanglements between the stations, is a way,
1805 essentially, to go around our local TV rule and establish a
1806 de facto duopoly where a true duopoly or a legal duopoly
1807 wouldn't be allowed.

1808 Mr. {Long.} So it would be good to give up a large
1809 percentage of my profits and things so I could fold into this
1810 arrangement if I am a successful station?

1811 Mr. {Lake.} Typically, these arrangements are not
1812 between 2 established, successful stations.

1813 Mr. {Long.} Exactly. In my area, we have a station
1814 that came on the air as a UHF, and, yeah, I am old enough to
1815 remember that, and it was, for all these years forward, it
1816 was kind of like Ted Mack's Amateur Hour, and there are a few

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1817 of you in here old enough to remember Ted Mack, but--and it
1818 was just a--it was going to fold, it was going to be out of
1819 business. I don't care if you would have brought in a
1820 minority owner, a non-minority owners, whoever it is, at the
1821 end of the day, these stations have to make money, they have
1822 to be successful. And I think that the message I would like
1823 for you to take back to the FCC, other than trying to do a
1824 quadrennial review in less than 10 years or something like
1825 that, would be that they need to be cognizant of these
1826 operations, the stations I am talking about in my market, in
1827 my hometown that I am talking about in particular, that news
1828 station that used to look like Ted Mack's Amateur Hour now is
1829 winning national awards. Now--yeah, they folded and they
1830 closed the building they were in, and tried to lease it or
1831 tried to sell it. They moved across town into a successful
1832 station, but that--I mean I don't understand, I mean I came
1833 from a 30-year business background, I don't come from
1834 politics. I, you know, I wasn't a politician before I ran
1835 for this, so I--at the end of the day, I did talk radio for 6
1836 years and I know, when you do talk radio, you want to put
1837 people in those stores. You have to be motivated to do a

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1838 good show, get in there, and sell product and have people,
1839 you know, support your sponsors. So it is all about
1840 capitalism, making a profit, and I just think that if you all
1841 blow up this thing, that station that is getting all these
1842 news awards now that used to do terrible, is going to be
1843 gone. Whether you bring in a minority owner, or whatever
1844 kind of owner you bring in, if it is not a successful
1845 station, it is not going to work very well.

1846 So I guess another question for you would be, would you
1847 rather that these failing broadcasters, such as the one I
1848 described, go out of business, than to be influenced, as you
1849 said earlier, by having a JSA with a successful broadcaster?
1850 Are you really that worried about the influence they may have
1851 if--would you rather then be out of business?

1852 Mr. {Lake.} A few things in response to that. The
1853 facts of these--

1854 Mr. {Long.} Answer that question first, if you will.

1855 Mr. {Lake.} Yes.

1856 Mr. {Long.} Yes or no, would you rather then be out of
1857 business?

1858 Mr. {Lake.} We have expressly in our rules an

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1859 opportunity for a station that is failing to obtain a waiver
1860 of our local TV rule, and we have granted failing station
1861 waivers. So if a station is failing, it doesn't have to take
1862 a backdoor of trying to become dependent on another station
1863 through a JSA, it can come in and seek a waiver. We also
1864 have indicated that we are wide open to consider waivers of
1865 the JSA attribution rule itself in appropriate circumstances.
1866 There are very different circumstances. There are
1867 circumstances in which these de facto duopolies have been
1868 established between two major network stations. Clearly not
1869 a failing station situation.

1870 Mr. {Long.} But if this failing station did a JSA with
1871 a successful station like I have described, and you blow this
1872 up or unwind it, then that station would either have to cease
1873 to exist, or they would have to go find another space across
1874 town and go back to being a failing station. I mean it is
1875 going to be too late to come in for this waiver you are
1876 talking, correct, or not?

1877 Mr. {Lake.} It may not be too late. Again, we have
1878 entertained and granted a number of failing station waivers.

1879 Mr. {Long.} Okay. Thank you all for being here today.

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1880 And I have gone over my time, so if I had any time, I
1881 would sure yield her back.

1882 Mr. {Walden.} I appreciate that. Thank the gentleman
1883 for his participation, and all of our witnesses for your
1884 testimony and answer to your questions. I am sure we may
1885 have a few more for the record that, if we do, we will send
1886 to you and look forward to getting your response to it.
1887 Obviously, this is an issue that spans the spectrum of
1888 philosophy and the committee in a marketplace that is
1889 changing pretty dramatically and rapidly, and it is an issue
1890 we will continue to pursue one way or another. So thank you
1891 all for your participation.

1892 We stand adjourned.

1893 [Whereupon, at 12:16 p.m., the Subcommittee was
1894 adjourned.]